

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

BRYAN J. TREACY, M.D., RESPONDENT

FILE No. 02-13-279

**STATEMENT OF CHARGES and SETTLEMENT AGREEMENT
(Combined)**

COMES NOW the Iowa Board of Medicine (Board) and Bryan J. Treacy, M.D., (Respondent), on June 6, 2014, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and 653 IAC 25.3, enter into this combined Statement of Charges and Settlement Agreement.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no.30187 on September 2, 1994.
2. Respondent's Iowa medical license went inactive due to nonrenewal on August 1, 1996.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. **Discipline by Another Licensing Authority:** Respondent is charged pursuant to Iowa Code section 148.6(2)(d) and 653 IAC 23.1(1) with having a license to practice medicine and surgery or osteopathic medicine and surgery revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the order of disciplinary action is prima facie evidence.

STATEMENT OF THE MATTERS ASSERTED

5. Respondent is an Iowa-licensed physician who currently practices obstetrics and gynecology in Moore, Oklahoma.

6. **Oklahoma Disciplinary Action:** On or about May 16, 2013, Respondent was disciplined by the Oklahoma State Board of Medical Licensure and Supervision (Oklahoma Board). The Oklahoma Board alleged that Respondent engaged in sexual misconduct when he engaged in a sexual relationship with a female patient while providing gynecological care to her in Moore, Oklahoma, in 2011. The Oklahoma Board placed Respondent on probation for a period of five years subject to Board monitoring and counseling for sexual misconduct. See Attachment A.

SETTLEMENT AGREEMENT

7. **VOLUNTARY SURRENDER:** Respondent voluntarily surrenders his Iowa medical license to resolve this matter.

8. Respondent voluntarily submits this Order to the Board for consideration.

9. Respondent agrees that the State's counsel may present this Order to the Board for consideration.

10. By entering into this Order, Respondent understands that he has a right to be represented by legal counsel, voluntarily waives any rights to a contested case hearing on the allegations in the Statement of Charges, and waives any objections to the terms of this Order. This Order constitutes the resolution of a contested case proceeding.

11. Respondent understands that by entering into this combined Statement of Charges and Settlement Agreement, Respondent cannot obtain a copy of the investigative file. Pursuant to Iowa Code section 272C.6(4), a copy of the investigative file may only be provided to a licensee after a Statement of Charges is filed but before the final resolution of those charges.

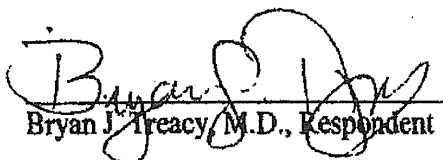
12. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

13. Respondent understands that the Board is required by Federal law (45 C.F.R. 60.8) to report this Order to the National Practitioner Data Bank.

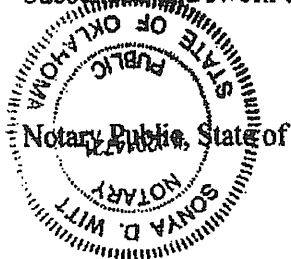
14. This Order becomes a public record available for inspection and copying upon execution in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.

15. This Order is subject to approval of the Board. If the Board fails to approve this Order it shall be of no force or effect to either party.

16. The Board's approval of this Order shall constitute a **Final Order** of the Board.

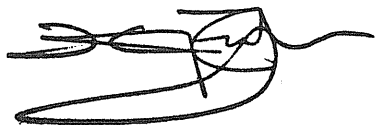

Bryan J. Treacy, M.D., Respondent

Subscribed and sworn to before me on 8th of Oct, 2013.



Notary Public, State of Oklahoma.

This Order is approved by the Board on June 6, 2014.



Hamed H. Tewfik, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

May. 15. 2013 9:10AM Oklahoma State Board of

No. 3129 P. 4

**IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA**

FILED

MAY 16 2013

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION)

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

v.

Case No. 11-08-4377

BRYAN JOSEPH TREACY, M.D.,)
LICENSE NO. 23781)

**ORDER ACCEPTING
VOLUNTARY SUBMITTAL TO JURISDICTION**

Plaintiff, the State of Oklahoma, ex rel. the Oklahoma State Board of Medical Licensure and Supervision ("Board"), by and through its attorney, Scott Randall Sullivan, Special Prosecutor, for the State of Oklahoma and the staff of the Board, as represented by the Secretary of the Board, Gerald C. Zumwalt, M.D., and the Executive Director of the Board, Lyle Kelsey, and the Defendant, Bryan Joseph Treacy, M.D., Oklahoma license no. 223781, who appears in person and with counsel, Mr. E.W. Keller, offer this Agreement effective May 16, 2013, for acceptance by the Board *en banc* pursuant to *Oklahoma Administrative Code* section 435:5-1-5.1.

By voluntarily submitting to jurisdiction and entering into this Order, Defendant pleads guilty to the allegations in the Complaint and Citation filed herein on February 10, 2012, and further acknowledges that a hearing before the Board would result in some sanction under the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act ("Act").

Defendant, Bryan Joseph Treacy, M.D., states that he is of sound mind and is not under the influence of, or impaired by, any medication or drug and that he fully recognizes his right to appear before the Board for an evidentiary hearing on the allegations made against him. Defendant hereby voluntarily waives his right to a full hearing, submits to the jurisdiction of the Board and agrees to abide by the terms and conditions of this Order. Defendant acknowledges that he has read and understands the terms and conditions stated herein, and that this Agreement has been reviewed and discussed with him and his legal counsel, if any.

Agreements and Stipulations

Plaintiff, Defendant and the Board staff stipulate and agree as follows:

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.*
2. Defendant, Bryan Joseph Treacy, M.D., holds Oklahoma license no. 23781 and practices Obstetrics and Gynecology in Moore, Oklahoma.
3. A review of Defendant's records reveals that beginning on or around June 4, 2008 and continuing through December 12, 2011, Defendant treated Patient NWR for various gynecological problems. Defendant's chart on this patient documents at least twenty-eight (28) office visits, at least ten (10) prescriptions authorized outside of these office visits, and numerous labs and tests ordered. Additionally, during this time, Defendant performed surgery on Patient NWR, specifically, a hysterectomy and left ovarian cystectomy. He also performed numerous PAP smears and a colposcopy examination, and treated her for weight loss with controlled dangerous substances.
4. When questioned by Board investigators, Defendant claimed that he stopped treating Patient NWR in May 2011 and that they then began a sexual relationship shortly thereafter in June 2011.
5. When Board investigators asked Patient NWR when she and Defendant began engaging in a sexual relationship, she admitted that it was in the spring of 2011. She then stated that the sexual relationship began in May 2011. At that time, Defendant "corrected" her and told her that "no", it wasn't until June 2011 that they entered into a sexual relationship. Patient NWR then stated that she could not remember exactly when their sexual relationship began.
6. A review of pharmacy records as well as Patient NWR's patient chart reveals that Defendant did not stop treating Patient NWR and acting as her gynecologist in May 2011, but instead continued to act as her physician and gynecologist through at least December 2011. Pharmacy records reflect seven (7) additional prescriptions, for both controlled and non-controlled dangerous drugs, written or authorized by Defendant to Patient NWR on May 18, 2011, June 13, 2011, August 9, 2011, August 12, 2011, September 9, 2011 and October 27, 2011. Additionally, according to Defendant's patient chart, he ordered labs for her and discussed the results with her on both August 15, 2011 and September 27, 2011. He then he referred her to a specialist on December 12, 2011 for a submandibular lymphadenopathy based upon his diagnosis on that date that she had "chronic lymph swelling submandibular right side, tender to palpation".
7. Defendant engaged in a sexual relationship with Patient NWR at the same time he

was maintaining a doctor-patient relationship, treating her, acting as her gynecologist, and prescribing both controlled and non-controlled dangerous drugs to her.

8. The American College of Obstetricians and Gynecologists has set the following standard for sexual conduct between a physician and patient:

Sexual contact or a romantic relationship between a physician and a current patient is always unethical.

Dr. Treacy's Evaluation and Treatment

9. Dr. Treacy underwent an evaluation at the Professional Renewal Center ("PRC") in Lawrence, Kansas in August of 2012. The PRC team who performed the evaluation on Dr. Treacy recommended that he undergo inpatient treatment. As a result of these recommendations, Dr. Treacy underwent twelve (12) weeks of inpatient treatment at the Pine Grove Behavioral Health and Addiction Facility. Dr. Treacy's twelve (12) weeks of treatment was interrupted for a short time due to financial considerations. Dr. Treacy was able to make appropriate financial arrangements and return to Pine Grove to complete his inpatient treatment on April 18, 2013.

10. The treatment team caring for Dr. Treacy at Pine Grove found that Dr. Treacy is deemed fit to return to the practice of medicine with reasonable skill and safety subject to certain limitations. Those limitations have been incorporated as a part of the Order herein.

Conclusions of Law

11. Defendant is guilty of unprofessional conduct in that he engaged in:

A. Engaged in dishonorable or immoral conduct which is likely to deceive, defraud or harm the public in violation of 59 O.S. § 509 (8) and OAC 435:10-7-4 (11).

B. Engaged in physical conduct with a patient which is sexual in nature, ... in violation of 59 O.S. §509 (17).

C. Committed an act of sexual ... misconduct or exploitation related or unrelated to the licensee's practice of medicine and surgery in violation of OAC 435:10-7-4 (23).

D. Abused the physician's position of trust by coercion [or] manipulation ... in the doctor-patient relationship in violation of OAC 435:10-7-4(44).

E. Violated any provision of the medical practice act or the rules and regulations of the Board or of an action,

stipulation, or agreement of the Board in violation of 59-O.S. §509 (13) and OAC 435:10-7-4(39).

F. Failed to furnish the Board, its investigators or representatives, information lawfully requested by the Board in violation of OAC 435:10-7-4(37).

G. Failed to cooperate with a lawful investigation conducted by the Board in violation of OAC 435:10-7-4(38).

Order

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:

1. The Board en banc hereby adopts the agreement of the parties in his Voluntary Submittal to Jurisdiction; and

2. It is ORDERED that the Defendant will be placed on PROBATION for a period of five (5) years and said probation shall have the following provisions:

Standard Terms:

- a) Defendant will conduct his practice in compliance with the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act as interpreted by the Board. Any question of interpretation regarding the Act or this order shall be submitted in writing to the Board, and no action based on the subject of the question will be taken by Defendant until clarification of interpretation is received by Defendant from the Board or its designee.
- b) Defendant will furnish a copy of this order to each and every state in which he holds licensure or applies for licensure and to all hospitals, clinics or other facilities in which he holds or anticipates holding any form of staff privileges or employment.
- c) Defendant will not supervise allied health professionals that require surveillance of a licensed physician.
- d) Defendant will keep the Board informed of his current address.
- e) Defendant will keep current payment of all assessment by the Board for prosecution, investigation and monitoring of his case unless Defendant affirmatively obtains a

deferment of all or part of said fees upon presentation of evidence that is acceptable to Board Secretary.

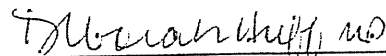
- f) Until such time as all indebtedness to the Board has been satisfied, Defendant will reaffirm said indebtedness in any and all bankruptcy proceedings.
- g) Defendant shall make himself available for one or more personal appearances before the Board or its designee upon request.
- h) Defendant shall submit any required reports and forms on a timely and prompt basis to the Compliance Coordinator or designee.
- i) Defendant will execute such releases of medical and psychiatric records during the entire term of probation as necessary for use by the Compliance Coordinator to obtain copies of medical records and authorize the Compliance Coordinator to discuss Defendant's case with Defendant's treating physicians and/or any physicians holding Defendant's records.
- j) Failure to meet any of the terms of this Board Order will constitute cause for the Board to initiate additional proceedings to suspend, revoke or modify license after due notice and hearing.

Specific Terms:

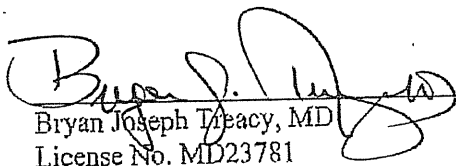
- k) Defendant shall follow all guidelines and recommendations as set forth in the Pine Grove Behavioral Health and Addictive Services Discharge Summary.
- l) Defendant shall sign a contract with Oklahoma Health Professionals Program ("OHPP").
- m) Defendant shall attend a Sex and Love Addicts Anonymous ("SLAA") meeting at least three (3) times weekly and Defendant will attend an Al-Anon meeting two (2) times weekly.
- n) Defendant shall maintain weekly individual therapy sessions. Frequency of sessions may be at the discretion of his therapist and will continue until Defendant's therapist deems it no longer necessary. Therapist will make quarterly reports of progress/termination of therapy to the Board Secretary.
- o) Defendant shall participate in group therapy which includes other professionals at least bi-monthly and will continue until Defendant's therapist deems it no longer necessary. Therapist will make quarterly reports of progress/termination of therapy to the Board Secretary.

- p) Defendant shall obtain a permanent sponsor within four weeks of April 18, 2013.
- q) Defendant shall seek employment in group practice, group clinic or hospital setting with at least three or more other physicians employed to ensure accountability by physician colleagues with equal standing in the workplace. Workplace is to be approved by Board Secretary.
- r) Defendant shall, upon finding employment, establish a workplace monitoring service to be approved by Board Secretary. Potential options include Professional Enhancement Program ("PEP) or 360 PULSE program at Pine Grove Behavioral Health and Addiction Facility. Defendant shall continue workplace monitoring until there are at least four (4) regular reports and one random report completed without significant incident.
- s) Defendant shall obtain a workplace monitor, to be approved by Board Secretary, who is not under the authority of Dr. Treacy who has access to all of his patient charts to be involved in the above-mentioned workplace monitoring program. Any concerns should be immediately reported to OHPP.
- t) Defendant shall have a chaperone present at all times during patient care. Chaperone should sign off on all patient charts during medical visits and report any concerns to his workplace monitor.
- u) Defendant shall refrain from socializing with workplace staff outside the work setting.
- v) Defendant shall submit to bi-annual polygraph testing, at a facility approved by Board Secretary, to screen for any lapse/relapse behaviors, workplace boundary crossings, and adherence to aftercare and recovery plan.
- w) Defendant shall return for a five (5) day recheck period at PEP in six months to evaluate Defendant's progress.
- x) Defendant shall promptly notify the Board of any citation or arrest for traffic or for criminal offenses.

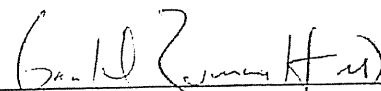
Dated this 16th day of May, 2013.



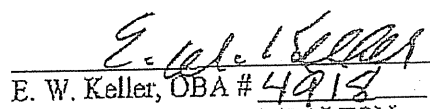
Deborah Huff, M.D., President
Oklahoma State Board of Medical
Licensure and Supervision



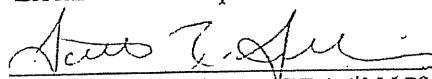
Bryan Joseph Treacy, MD
License No. MD23781



Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board Of Medical
Licensure And Supervision



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Oklahoma City, OK 73102
Attorney for Defendant

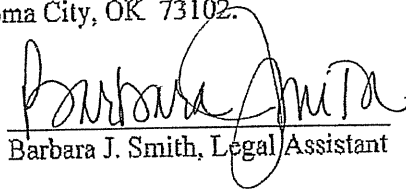


Scott Randall Sullivan, OBA #11179
101 N.E. 51st Street
Oklahoma City, OK 73105

Attorney for Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF MAILING

This is to certify that on this 16th day of May, 2013, a true and correct copy of this order was mailed, postage prepaid, to Mr. E. W. Keller, KELLER, KELLER & DALTON, 210 Park Avenue, Suite 1110, Oklahoma City, OK 73102.



Barbara J. Smith, Legal Assistant